

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

ALLEN MORSLEY,
petitioner

VS.

DONALD ROMINE,
respondent

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PETITIONERS REPLY BRIEF IN SUPPORT OF DISCOVERY
PURSUANT TO 28 USC section 2247 OF FEDERAL CIVIL
JUDICIAL PROCEDURE AND RULES' WITH INCORPORATED
MEMORANDUM OF LAW (L.R. 7.5.)

Filed

CASE# 1:01-CV-01003

RECEIVED

JUN 27 2003

PER
HARRISBURG, PA. DEPUTY CLERK

COMES NOW , ALLEN MORSLEY (Hereinafter "petitioner") Appearing pro se, in the
Above captioned matter , and Hereby moves this Honorable Judge pursuant to 28 USC
Section § 2247 [O]r Any Other Rule this Court Deems Appropriate ' To Compel Discovery
In the Interest Of [J]ustice .

PETITIONER AVERS THE FOLLOWING :

#1.

Petitioner Motion Requested that this Honorable Judge Conduct In Camera Inspection
Of Entire File of [O]riginal Documents (emphasis Added on Original) Because
Petitioner has Proof that Legal Documents have Been [A]ltered To Make it "Appear"
that the Petitioner Has Been Indicted .

#2.

Petitioner has [E]very Reason to believe that this Honorable Judge Is Impartial .

#3.

And Most Important ' The Petitioner is being [I]llegally [D]etained ' Not Just in
Violation of Constitutional Rights ' And Treaty Rights , But Also In [V]iolation
Of [H]uman Rights . Whether Civil Or Criminal. and Counsel for the respondent'
Can [N]ot Avoid such A Grave Question by Argument Attacking the Label of the Writ.

THRESHOLD MATTER

[U]ltimately **This Honorable Judge** Will Have to Rule Whether The Petitioner [H]as **Overcome** the burden to benefit from **Safety Valve of Great Writ Of Habeas Corpus**. And while the Petitioner [I]s Aware of Supreme Court Precedent that places the **Presumption** upon respondent Once the [C]laim has been made ' ("That one is being [U]nlawfully Detained".) There is Still Another Approach that the Supreme Court Has Endorsed Under the same Standard . That Being ' that it is petitioners Burden to **Overcome** .

Yet [I]f' Counsel for the respondent is Allowed to **Continue** [A]voiding this [e]ssential [Q]uestion by **Protracting Argument** ' Neither , Admitting [N]or Denying that Petitioner is Being Illegaly Detained ' Then the Petitioner **Should** be **Allowed** to prove that He Could Overcome Either Standard , And further ' that such **error** Was [N]ot [H]armles As the Supreme Court Held In O'NEAL VS. McANINCH, 513 US 432, 130 LEd 2d. 947, 115 SCt. 992 (1995).

" We conclude that the uncertain Judge should " treat the error, Not as if it were harmless, But as if it affected the verdict(i.e., As if it had A "Substantial and injurious ' effect or influence in determining the jurys verdict".) i.d. at 130 L.Ed 2d at 951. (Justice Breyer Delivered the Opinion of the Court).

In the instant case before this Honorable Judge ' Counsel for the respondent **Objects** to Motion to review the Record IN CAMERA , Arguing that (In **Opposing** the Habeas Petition , [T]his response to the **Habeas - Petition** is the [E]quivalent of a dispositive motion .) "And discovery should be stayed until the motion is **Resolved**. (Quoting Civil cases).

The **Central [I]ssue** which Petitioner Advances Before this Court ' Is that Petitioner Is [B]eing [U]nlawfully [D]etained . Unlike the Civil Cases Cited³ by counsel for the respondent . The errors being considered for this Habeas Petition "[O]ccurred in A Criminal proceeding , And therefore ' [S]omeones Custody , Rather than Mere Civil Liability is at Stake . Which is consistent with the Basic [P]urposes underlying What Has Become Known as the Great Writ Of Habeas Corpus .

Moreover ' All Arguments Forwarded Are Relevant To Central [I]ssue !
For Example :

Petitioner was Found to be A **Carrer - Criminal** under USSG. 4.B.1 . Yet was [N]ot Charged With 922(g)(1) Being in Possession of a **Firearm** by a convicted Criminal . as Conviction is **Element** of 922(g)(1) , it is impossible to charge a person with said violation without **Knowledge** of Prior Conviction . Infact ' it Couldnt have been [E]xplained any better than the supreme Court Justice (Breyer) When he Gave And Example In UNITED STATES VS. HARRIS,

" Where He stated Somthen to the Effect"
[O]F

" What about the person who is [A]rguing ' Say Identity"
 what would the jury say ' [I]f such a Defendant were to [O]bject to the Amount ?

[W]ouldnt ? the Jury then Ask ' Hey , How does this Person Know what Amount it should Be ?

" Although justice Breyer went on to Explain that this" problem would **rarely occur** , Because in Such a case prosecution and defendant would **stipulate to amounts**.

Yet ' What of the Case that there was No Stipulation ? What (e)lement could Petitioner Argue that Petitioners [G]uilt would not be attached ? When Petitioner Argued That 404(b) Evidence was far out weighed by prejudice 403 .

The Fourth Court of Appeals Ruled that it ' Was [I]nfact **Far Out-**
weighed by [P]rejudice to **the Defendant** , [B]ut ' it was rightfu-
 lly introduced for the **purpose** of [I]dentity . Because They rea-
 oned ' the petitioner **Steadfastly** argued that he was [N]ot **Raleek**.

It didnt matter **Trial judge** [I]nstructed the jury :

" That 404(B) eveidence was being introduced "
for the sole purpose to show **intent** , and
Motive to commit the charges that petitio-
was [A]llegedly charged with in Offense.

Nor did it matter that , **jury** was instructed ' that it could not ,
 be considered for **Any** [O]ther purpose besides those that trial judge
 had given . infact ' the 404(B) evidence coupled with trial judg-
 es instructions that the petitioner [W]as [C]harged ' and furthermo-
 that the petitioner was [K]nown ! when officers Admitted that they
 [G]ot A tip **That** the person they were looking for frequently sto-
 s by A Apartment [C]omplex on Kid Row Street .

So when counsel for the respondent **argues** why peitioner **Didnt** , why
 petitioner **Shouldnt** , why **petitioner Cant** , [O]r why petitioner **hasnt**.
 [I]ts **Because** ' the petitioner [I]s Still Telling you that he is [N]ot
 [Y]our Man.

Petitioner **Respectfully** Submits to All [I]nvolved Parties ' that [O]-
 ne **Must** be charged , **Before** He/She Can be [C]onvicted for an **Infamous**
 Crime in Federal Court . And All **Exhibits** and **Arguments** forwar-
 ded ' show that , **There Came A Time** ' That A Trial Was Ordered Witho-
ut [S]ubject Matter Jurisdiction , And the petitioner Has Petitioned '
 the Court For His Released . ****Notice****

STANDARD OF REVIEW

HAINES VS. KERNER, 404 U.S. 519 , 30 L.Ed. 2d 625; As the petitioner is A Layman of Law , Petitioners Litigations Should be held' To Less Stringent Standards that A Lawyer .

STATEMENTS OF FACTS

On Sept 23 Petitioner was Arrested By **A.T.F.** Agents ' Acting off Tip of Confidential Informant that Told them '(Borrowing from testimony of Agent In Charge) " That the person that they were looking for comes there ". Agent Fannelly Would Also Testifie that he had **Never** ' Actually Seen The Person Who He Was Looking For ? So Once He Did get Inside of The Apartment that He Found **(5) Five** African Americans . He Testified that Some One Inside the Apartment Motioned that the petitioner **Was The One That He Was Looking For** ! Although he Would forget to get **[T]hat** Persons Name Who Motioned Petitioner Out ?/

On Sept 24 Petitioner was Taken Before USMJ **Who** Informed the petitioner of the charges that he was **Facing** ' One Being A Violation Of **Section 371 Conspiracy** . And when Judge Asked Petitioner Whether He [U]nderstands charges ! Petitioner Stated To USMJ that He Understood the Charges , But He Doesnt See His Name In The **[I]ndictment** . **Acting * U.S. Attorney** Chritine B. Hamilton **would** then Tell the USMJ that the petitioner Is the **John Doe** Named In the Indictment .

On Sept 27. petitioner had bond hearing with Counsel (Ms. Agguire) Petitioner Would therein be held **Pending Trial** , As USMJ Denson Would Rule that **The Petitioner Had Not [O]vercome Presumption Of [I]dentity.**

On Nov 22. Petitioner Was **Arraigned** Before Trial Judge **James C.Fox** .
Who Would Rule That :

"The [G]rand Jury Indicted [S]omebody"
And He Thought that it was a [Q]uest-
ion for the jury to [D]ecide who t-
hat person was.....

Petitioner Ultimately Recieved **F.O.I. Information** that Disclosed Many Unkown Facts ' Namely that the Petitioner Was Not Indicted/ And Fur-
urther that Alleged Indictment had Been **Amended** To Include **Narcotic Violations** . That Acting U.S. Attorney Christine B Hamilton Was **[N]ot** The One Who Had **Secured Indictment** . And Further Because Fletcher Johnson Was A **Licensed Firearm Dealer** ' The Case Had Been Secured Under the Statutes Of A Corporation .

Pettitioner there Upon " Found that **Ms. Chritine B. Hamilton** Is Not A **Licensed Attorney According to the NORTH CAROLINA BAR ASSOSSIATION** .
Nor The North Carolina Supreme Court . Petitioner Further Dis-
covered that On Sept 24 th Petitioners **Fingerprints** Were Reveal-
ed to be those of A Person Wanted (**Allegedly For 2nd Homocide**) .
After Futher Inquiry ' Petitioner Found that he Was Wanted For Ques-
tioning . But Has Not Of Yet Been Questioned (Almost **Ten Years**
Later .) While **P.S.I Report** States that Said Witness Has Had
Further Involvmnt With Criminal Justice System , the District Att-
orney Does not Wish to extradite . So what happened was'
the petitioner was the **Victom** By Way of Informants Belief that pe-
titioner was the one that they (**A.T.F.**) were looking for .

(Note) (That **Sept. 24th Appearance** was reported by **Tally Taylor** Who' has been Identified as the court reporter Who [I]s in Possession of Petitioners **First** Appearance before USMJ . Yet petitioner has not Been Able to secure **Certified Copy In Almost Ten (10) Yeras**) Furthermore , During Trial Petitioner Asked Attorney To Secure Copy of said **hearing** ' But what petitioner was given was copy of **Sep. 27th** Bond hearing . Petitioner ' And Family Members have for what Seems Like Forever ' Atteptmed through phone calls , and **Personal - Appearances** ' to Secure transcripts of first appearance hearing . Knowing that it would Clearly show the numerous changes that **Amend-** ed [I]ndicment had undertaken ! And Furthermore By Whom ! As Ac- ting * [U]nlicensed U.S. Attorney (Christine B. Hamilton) [D]id - [N]ot Secure [I]ndictment . [N]or Did Christine B. Hamilton Produce [O]ne Witness [B]efore A [G]rand Jury For "Any" [V]iolation Alleged Against The Petitioner . The Rub is that Amended Indic- ment Is Signed By Christine B. Hamilton . (One Not In Good Standing With North Carolina Supreme Court [O]r North Carolina Bar Assosiation) **Coupled** With the Fact that **A.T.F.** Who **Secured** The [I]ndictment. And then Submitted Case for Prosecution ' To **James Dedrick** U.S. Atto- rney for Raliegh North Carolina ' With Alleged Violations (Those Be- ing (2) Two In Number , Title 18 U.S.C Section 371 . Chapter 19. And 18 U.S.C. Section 924 (C) (1), Chapter 44 . Furthermore ' **A.T.F.** Who Would Testifie That they **Investigated** the Case , Will Al- so Testifie that they **Did** [N]ot Know the Petitioner . Nor had petitio- ner Been Indicted for **Any** Controlled Buys Of **Narcotics** [O]r **Firearms** ? SEE **Testimony Of Agent Fannelly** [BOND HEARING]. Yet After Further Investigation ' [I]t Has Been Revealed That Case **Submitted** for Pros- ecution To The Honorable James R. Dedrick' **Was Investigated** By Depa- rment of Treasury , **A.T.F.** In the[C]harlote North Carolina Division. 4530 Park Road, Suite 400 Charlotte Nc. 28209 . Under Criminal Case #

Number 13530 93 2504 L . Which Was Later Dubbed as Case# Number 13550 93 4565 T . Case # 13550 93 4565 T Was Initiated Aug 16 1993 ' Almost (2) Two Months After [I]ndictment Came Down Alleged [I]ndictment was Filed In Court On July 6th 1993 -[O]r June 6th 1993 (dates are Conflicting ?)

Yet In [A]ny event ' Nearly two months after indictment was handed down ' Three Months if you count from june 6th 1993 .

In other Words ' After the Indictment had been Secured for Two Counts , Ms.Christine Hamilton Amended [I]ndictment To Include [94] Ninety Four Additional charges ' Also Amending Indictment to [I]nclude Petitioner.

Argument # 1.

Because Case Before this Honorable Court ' Comes Down to A Question Of Subject Matter Jurisdiction. Which Goes to the subject matter of the Trial Courts Authority to even [T]ry the Case , [A]ny Inquiry would be Rather [S]imple . As Any Person [O]r Infamous Crime [N]ot Charged by [G]rand Jury ' [S]trips the Article III Courts OF Subject Matter [J]urisdiction , As Federal Courts Are Courts Of Limited Jurisdiction ' Deriving Powers Soley from Article III of The Constitution, SEE INSURANCE CORP. OF IR Ltd Vs. COMPAGNIEDEED BAUXITIES DE GUINEE, 456 U.S. 694 (1982); The Trial Court could Not Creat its [O]wn Jurisdiction. SEE RUSSELL Vs. UNITEDSTATES, 369 U.S. 749 (1962); (Holding)

"An Indictment may not be Amended except by resubmission to" [G]rand Jury' Unless the change is merely of form . [I]f' it be [O]nce held that changes can be made by consent or O-rder of the court in the body of the indictment as presented by the Grand jury , and the prisoner can be called upon to' Answer to the indictment as thus charged , The Restrictions which the Constitution placed upon the power of the court , In regard to the Prerequisite of an Indictment , In Reality , No Longer Exist i.d.

Futhermore , Courts are bound to Assure themselves of jurisdiction ' even [I]f' the parties fail to raise the Issue ' Yet in the case before this Honorable Court , the petitioner **Himself** Advised the Court that His Name was [N]ot In the [I]ndicment . As For the Trial Judge ' This Is What He Had To Say About That :

" The [G]rand jury ' [Indicted] [S]omebody" and that he [T]hought it was a [Q]uestion for the jury to [D]ecide who that person was

[further]" that he didnt think the Acting* U.S. Attorney had to go back to the grand jury and Re-Indict your man.

but SEE INSURANCE CORP. IR Ltd, 456 U.S 702 ;

" A Court Not Only has the Power' But Also" The Obligation at [A]nytime to Inquire Into Jurisdiction whenever the possibility that Jurisdiction does not [e]xist [A]rises.

Citing PHILBROOK Vs. GLDGETT, 421 U.S. 707 (1975); And UNITED STATES VS. FOLEY, 73 F3D 484 (2ND. CIR 1996) , ALSO SEE e.g., BENDER Vs. WILLIAMS-PROT AREA SCHOOL DISTRICT, 475 U.S. 534, 541, 106 Sct. 1331, 89 LEd.2d.-501 (1986). So counsel for the respondents first argument Opposing Discovery Must Fail . because repondent [U]nlawfully Moves this Honorable Court ' To [D]ecide the issue of [I]llegal [D]etention Without Review of [O]riginal [D]ocuments et. SEE ONEAL Vs. McANINCH, 513 U.S. 432, 130 LEd.2d. 947, 115 Sct. 992 (1995)(Justice Thomas , with whom the chief Justice and Justice Scalia Join ,Dessenting) Had this To Say :

" As for the courts Assertion that its Rule " eliminates "the need for judges to read ' Lengthly records to determine prejudice in every habeas case". ibid., I thought it settled that " it is the duty of a reviewing court to consider the trial record as a whole " when conducting a harmless-error analysis. i.d. at 130 LEd.2d. at 962.

In other Words ' [H]ow else Would/Could this Honorable Judge Decide whether the petitioner [I]s Being [I]llegaly [D]etained ? Counsel- for respondents Possition is "Telling" ' To say the Least . Respo- ndent néither Admits [N]or Denys That petitioner is being [U]nlawfu- lly Detained , Yet He still Opposses dicoverly ' And Finaly , He op- posses In Camera Inspection of [O]riginal Documents . While [A]t an irreducbbæ minimum , Atticle III requires the pary who invokes the Courts Authority to 'Show that he personally has suffered some actual Actual or threatened injury as a result of thepButatively Illegal ' Conduct of the Defendent, ' . SEE GLADSTONE Vs. VILLAGE OF BELL- WOOD, 441 U.S. 99 [60 LEd.2d 66, SCt. 1601] (1979) . As to the Supreme courts Position on the Importance of the Fact-finding pro- cess in Constitutional adjudication. SEE e.g., MINNICK Vs. CALI- FORNIA Dept. OF Corrections, 452 U.S. 105 , 120+127 , 68 LEd.2d 706 101 SCt. 2211 (1981); ENGLAND Vs. LOUISIANA BOARD OF MEDICAL EXAMI- NERS, 375 U.S. 411, 416, 11 LEd.2d. 440, 84 Sct. 461(1964) (How the Facts are found will often dictate the decision of federal claims"); TOWNSEND Vs. SAIN, 372 U.S 293, 312, 9 Led.2d. 770, 83 SCt. 745(19- 63); ("It is the typical, not the rare, Case in which Constituti- onal cllaims turn upon the resolution of contested factual issues"). Cf. supra, at 538-540 89 Led 2d. at 509-510, and n. 3.

What counsel for the respondent [I]s Attempting to do ' Is to [P]rotract [L]itigation , Under the Guise of a dispositive Question inwhich he only Applies [F]orm But Not Affect . As Federal courts hearing a **Habeas Corpus** Petition has the power to **Compel Production Of Complete Court Records.** THOMPSON Vs. WHITE, 391 f2d. 724 (1968) . There is nothen **dispositive** concerning the Courts [P]ower to Act . SEE EX PARTE ROYALL, 6 SCT. 734, 117 U.S. 241, 29 LEd. 868 (Holding);

" The Federal Courts Have **Power to Discharge** " prisoners **restrained of there [L]iberty in Violation of the Constitution of the united States id.**

The [D]ispositive Question is whether the petitioner [I]s being' [U]nlawfully Detained . yet counsel for the respondents argues that the dispositive question ' is whether the petitioner can Argue that he is being Legally Detained by [R]espondent . [I]n ' The Court Of Said [J]urisdiction ! Surely Counsel for the Respondent is not questioning the THE MIDDLE DISTRICT OF PENNSYLVANIA - [O]r THE DISTRICT COURTS JURISDICTION TO HEAR THE MATTER?

SEE BRUUN Vs. HANSEN, 103 f2d. 658 (1939);

"The accused expects ' All officers" of the court to be truthfull as any [O]aths and disclosure of same pursuant to said court officer **fiduciary Responsibility. id**

Habeas Corpus was a Common - Law **Writ** prior to its Statutory establishment by **Habeas Act of May 27th, 1697** ' and [I]s **Guaranteed** by the **United States Constitution** in Article 1, Section 9, Clause 2,. Pe

The [B]asic purpose of the Writ of Habeas Corpus ad subjiciendum , sometimes call the "Great Writ" is to inquire as to the fundamental legality of the Prisoners Custody [O]r Restraint . CARB Vs. UNITED STATES, 277 f.2d 433 (9th Cir. 1960) ,affirmed 364 U.S. 611, 5 LEd.2d. 329 (1960). Another [B]asic Purpose for the Writ ' Is to Enable those [U]nlawfully incarcerated to obtain there Freedom , and these purposes and priciples must be preserved [I]nviolative. SEE JOHNSON - Vs. AVERY , 393 U.S. 483 , 21 LEd. 2d. 718 (1969).

Yet the [M]ost Important of the Basic Fundamental principles of the [P]etition ' Is that the Goverment Must Always Be Accountable to the Judiciary for a Mans/Womans Imprisonment , and the restraints on there [L]iberty Must Be [R]emoved if the imprisonment does not conform to the basis [R]equirements of Law. SEE SHELTON Vs. CICCONE , 578 f2d. 1241 (8th Cir. 1978).

The United States Supreme Court Has Emphatically Reiterated that the primary purpose of the Habeas Corpus Proceeding is to Make Certain That the Petitioner is [N]ot - Un-justly [I]mprisoned .

" It is neither necessary nor reasonable to " deny him all opportunity of obtaining judicial Relief .

PRICE Vs. JOHNSON, 334 U.S. 266, 92 LEd. 1356 (1948): SEE ALSO SANDERS Vs. UNITED STATES, 373 U.S. 1, at 6-19, 10 LEd.2d. 148 at 156-163 & n. #3 n. #5-8 (1963). Also See In re J.T. Haun, CTA6 No. 01-2067;

" Where 6th Cir. Grants the right to file" a section 2241 habeas corpus petition ' based on the interpretation of the scope of the mail fraud statute in the Neder Case .

[I]n fact ' under the **same** circumstances the **third** Cir. granted C.O.A. in connection with the interpretation of the **proper** scope of the mail fraud statute. See In re Sonnberg, C.T.A3 No. 01 2067. Furthermore One of the **arguments** forwarded by the petitioner , was that **Acting * U.S. Attorney** (Christine B. Hamilton) **Amended** [I]ndictment to broaden **Mail fraud statute** to include **Wire Fraud** . So **Discovery** would be proper for a number of reasons .

ARGUMENT #2.

Petitioner has in **good faith** , Attempted to the best of his ability' to provide this court with **All** documents that go to the foundation of **any/** and all claims that have been raised , yet counsel for the respondent' sits on a **wealth** of information ' and cautions this Honorable Judge that that it would be **burdensome** ' and further a **waste** of resources to compel [O]riginal Documents . Further , Counsel reads the case petitioner **[A]rgues** (Harris Vs. Nelson) to read something of another **Guise**. Yet' the petitioner will-**Not** Insult this Honorable Judge by Quoting the **Entire** case into traverses , Yet the petitioner **will elaborate** fully on counsel's **Second** reason for Opposing motion for **[D]iscovery** . As counsel argues that it would be a waste of **resources** ' And a **Burden** to the court.

Petitioner herein Gives **Judicial Notice** , that in [A]pproximately five' Months (5) ' Petitioners **[I]llegal [D]etention** will have **cost** About three **hundred thousand dollars** \$ 300.000 to tax paying **Citizens** [A]lone ! This **estimate** neither takes into account the **three** Attorneys that petitioners family have retained , (Only (1) of which the federal courts have allowed to be heard)(And Although petitioner has **not** been able to prove it yet ' petitioner has **every** reason to believe that this counsel **[D]idnt** ' Show up for [O]ral Argument.)

Yet ' there are even **[G]reater** resources that have been wasted ! and those **being** the greatest resources . **[H]uman [L]ives**

As the petitioner **[N]ow** has a Son (**Markell Fullwood**) Whos been placed in **[C]hild [C]ustody** , After it was reported that he was being **[N]eglected** by his **Biological [G]randmother** Who has been left with a child that **[S]he Does-Not Want** . Petitioners other **Son** (Demitri) has also been **Hospitalize** For **[M]ental** problems related to his **[D]ead** Father .

petitioners **[O]ldest** Son (Jaiquan) has **recently** been **Arrested** for possession of **Controlled** Substances ' and like all of petitioners children ' have **[O]nly** gotten **worse** since his **[I]llegal [I]ncarceration**. yet this list could go **on and on** . but because of the magnitude of one other aspect ! petitioner will end with **[H]is** very Very Dear Mother ' who is 68 years old , A **[C]onstant** Patient for her doctors , Nearly passing away after having **[S]trokes** that the Doctors can find no **reason for [A]ttacks**. **[D]isabled** Because she cannot hold down a job with such poor health ' and in need of such **scrutinized medical care** . Yet she **[I]s** All that the petitioner has in **his** fight for his life **Against** those who would claim his li- without **Due Process** . And as i look on at all of the lives that have Been/ and are still being destroyed by this **[I]llegal [D]etention** ' The petitioner Finds the **[S]tatement** of counsel for the respondent **[R]epulsive** and **[U]nethically [N]efarious** for one who **neither [D]enies / or [A]dmits** that the petitioner is being **[D]etained [U]nlawfully** .

Futhermore ' even **[I]f** **Justice** were for **sale** ' **(O)r** resources the determining factor . Wouldnt such a fact **assure** that the **[M]ost** Effective ' criminal would receive a **[G]reater** degree of **[J]ustice** , than the innocent **[P]oor** ?

SEE CARPENTER VS. DANE COUNTY, 9 Wis. 274, 276, 277. (1895);

9 Wis. 274, 276, 277. *i.d.*

" would it not be a little like mockery to " secure to a pauper these solemn constitutional guaranties for a fair and full trial of the matters with which he was charged , and yet say to him when on trial that he must employ his own counsel, who could alone render these guaranties of any real permanent value to him.*i.d.*

The sixth amendment has been described as the foundation from which all due process rights are bound . And the sixth amendment stands as a constant [a]dmonition that if the constitutional safe guards it provides be lost , [J]ustice will [N]ot [S]till be done . SEE JOHNSON VS. ZERBST, 304 U.S. 458, 462, 58 Sct. 1019, 1022, 82 LEd. 1461 (1938) to the Same Affect SEE EVERY VS. ALABAMA, 308 U.S. 444, 60 Sct. 321, 84 LEd. 377 (1940) and SMITH VS. O'GRADY, 312 U.S. 329, 61 Sct. 572, 85 LEd. 859 (1941).

In other words , [I]f' Justice were Determined ' or [R]ights somehow put on sale . Then what we would have could not be further from Justice! [F]urthermore [I]f' Justice were **delayed** ' it would be the [E]quivalent of [J]ustice [D]enied .

As for counsel for the respondents concerns for the **Burdens** of the Court, the petitioner Assures the **Honorable Judge Kane** ' That there would [T]ruly be Little burden [I]f' Any.

ONE 1.

Even without petitioners ' Arguments one could just [G]limps At the record and see that this **case was about firearms** (with several hundred firearm exh) And furthermore ' out of **several hundred** ' only (2) two exhibits were alledgedly introduced for the petitioner .

TWO 2.

Discovery is being requested because the petitioner has [N]ever been Indicted for the charges that he is being illegally [D]etained. So the relevant search would track the [O]riginal Grand Jury Minutes / then the Filee / then the Filer . The same could be done with A.T.F. Case # 13530 93 250~~4~~ L . Which was Later dubbed As Case # 13550 93 4565 T. WHICH WAS INITIATED [A]FTER THE INDICTMENT WAS SECURED / ' And for the Sake Of [A]rgument , [A]fter ' It (Indicment) Was Filed In [O]pen Court .

THREE 3.

Petitioner has introduced certified copys from A.T.F. Secured through Freedom of Information . So because they A.T.F. were the branch of goverment who Investigated case / Secured Indicment / And furthermore Submitted Case For Prosecution ' Surely the search for the truth would [U]ltimately Begin - And End There . As they are in Possession of All [O]riginal Documents Relevant to this Case .

FOUR 4.

And [M]ost Importantly ' Because the essential [I]ssue is whether ' the petitioner is [A]ctually the person charged for any of the crimes submitted to the [G]rand Jury ' It is Imperative that a thorough investigation be made of the documents which could [A]lone assure a Meaningful [I]nquirey . [T]he meaningful inquirey that Must be undertaken when one makes the claim that he/ she is being Illegally Detained.

ARGUMENT # 3.

Because the petitioner has ' petitioned this court with claim that he [I]s being **Illegaly** detained , And counsel for the respondent has yet to [R]efute this claim ' The petitioner should be [A]llowed the Full extent of the [L]aw to litigate his [C]laims . SEE ARMSTRONG VS. MANZO, 480 U.S. 545 (1965); SEE ALSO , e.g., BODDIE VS. CONNECTICUT, 401 U.S. 371 , 377 (1973);

" Due process requires at minimum that absent A " countervailing state interest of overriding - sinificance , persons forced to settle their claims of right and duty through the judicial process must be given a meaningful opportunity to be heard".

The Supreme court has repeatedly made clear that an " opportunity" to be heard " is A " **Fundamental Requirement of Due Process** ". Although the petitioner [i]s not being represented by [C]ounsel ' it **Doesnt** Make his **Claim Less Meaningful** , SEE HAINES VS. KERNER, 404 U.S. 519 30 L.Ed. 2d 625 . [I]nfact ' the standard is **lowered** in such a case.

So whatever ' entitlement that counsel for the respondent seeks from This **Honorable Judge** , [is] Misplaced . Petitioner Argues that if the record of [O]riginal Documents were made a part of the record ' that many of the arguments would So Clear ' that this court would [O]rder the petitioner Be [R]eleased . SEE ESTATE OF ROBERTS VS. COMMISSIONER, 320 U.S. 410 , 413 (1943)(Frankfurter J., Writing for the Court);

" In law..... The Right Answer " usually depends on putting the right [Q]uestion."

In the instant case before this court petitioner ' has [D]ocuments that [P]rove that prosecuter *acting AUSA **Christine B.Hamilton/ Christine Blaise Hamilton / Christine Hamilton** ' Who [A]mended the [I]ndictment, Was [N]ot Licensed to [P]ractice [L]aw in the Court inwhich the petitioner was on [T]rial for his **Liberty** ! SEE EXHIBITS [1]-Through [4].

This Argument has been forwarded in relevant fashion ' As it is a crime in North Carolina to [P]ractice law [W]ithout A License. And Furthermore , [W]hen trial judge [L]eft courtroom during closing **Argument** for Defense ' It **Not** only [P]rejudiced the petitioner' but it caused what has been **Defined** As A [S]trucural error in Two (2) different ways .

#1. SEE U.S. Vs. MOTIMER, 161 F3d. 240 at 242 (3rd. Cir. 1999);

" As the framework "Whithin which" the trial **proceeds** has been [e]liminated. As jury could have ' taken judges actions as indication that prejudiced the petitioner .;

SEE GOMEZ Vs. UNITED STATES, 490 US 858, 873 109 SCt.2237,(1989);

" As the [S]tructure has been **re**moved, And there is [N]o way of **repairing it.**";

SEE ARIZONA Vs. FULMINANTE, 499 US 279, 309-10, 111 SCt.(1991);

" and the **verdict is a nullity.** "

#2. So the trial judges Action in itself ' Have been discribed as an [I]njustice that destroys the adversial process ' [Y]et when the **trial Judge** leaves the courtroom , and petitioner is left in **battle** with an' [U]nlicensed **Acting*** AUSA , Who Ignores the petitioners Objectins in [F]ront of the jury' and Clerk of court **has** to step [I]n , To remind * Acting AUSA [T]hat She Must Recognize the petitioner [O]bjections (As The petitioner Continued to object ' And acting* AUSA And the petitioner began [T]alking louder and louder in front of the jury) The petitioners case **represents** errors of **Constituttional** demension that were so [P]lainly A Violation of the petitioners [F]undamental rights' as to be construed as A [M]anifest [I]njustice ' Which the Supreme Court Discr-ibed in HILL Vs. UNITED STATES, 368 U.S. 424. (1962);

" A Fundamental defect which inherently results in "
 A complete miscarriage of Justice , (O)r an O-
 mission that is inconsistent with the rudimentary
 demands of fair procedure. id."

It has been [V]irtually well settled that whwre an Attorney [P]urported-
 ly , representing the United States ' [I]s without Authority to do So '
 The Court must [D]ismiss the Indictment or Action , As it is without ,
 The [J]urisdictional Authority to Entertain the Litigation . SEE UNIT-
ED STATES Vs. PROVIDENCE JOURNAL CO, 458 U.S 693, 108 SCt. 1502, 99 L.Ed.
 2d. 758 (1988).

In the Instant Case Before this Honorable Judge , Acting * U.S Attorney
 Christine Hamilton ' [N]ot Only Amended Indictment , But Vouched for Tes-
 timony that she [K]new Was False (Or should have known was false) Sure-
 ly the court is Aware of the [M]any Amendments that have been made to the
 Indictment . [Y]et Is The Court [A]ware that Acting * U.S. Attorney '
 Also , Unlawfully Unsealed Petitioners [J]uvenile [R]ecords An introdu-
 ced them so that petitioner would be eligible for U.S.S.G. 4.B.1 ?

The petitoner has Compiled evidence to prove each an every Claim that is
 Made . Yet there is Still information that is being Coveted by counsel
 For the Respondent . and most of the documents have been falsified by'
 the District Attorneys Office. As it is [U]nthinkable that Counsel f-
 the respondent would [O]bject to in-camers inspection. SEE BRUUN Vs.
HANSEN, 103 F2d. 685 (1939);

" The accused expects ' All Officers "
 of the court to be truthfull as an-
 y [O]aths and disclosure of same ,
 pursuant to said court officers fi-
 duciary responsibility. id.

In other words ' [I]f the U.S. prosecuting Attorneys are servants of the Law , Then [O]ne making a claim of **Actual [I]nnocence** ' Would be of grave importance . [A]s ;

" [J]ustice consists not only of Convic-
ting the Guilty , but also of assigni-
ng them a lawful and just punishment.;

SEE UNITED STATES Vs. TAYMAN, 885 F.Supp. 832, 844 (E.D.Va.1995);
As " No court of Justice would require a man to serve [Four] un-
deserved years in prison when it knows that the sentence is impr-
oper". id. FORD, 88 F.3d. at 1356. Yet the Supreme Court pr-
ecedent behind this reasoning was first held to be **applicable** to
procedurally defaulted claims in MURRAY Vs. CARRIER, 477 U.S. 478
496, 106 SCt. 2639, 91 L.Ed.2d 397 (1986) [I]t Was extended to '
Cover Sentencing error In ' SAWYER Vs. WHITLEY, 505 U.S. 333, -
340-41, 112 SCt. 2514, 120 L.Ed2d. 269 (1992) ; And the burden
of proof was further **relaxed** for certain cases in SCHLUP Vs.
DELO, 513 U.S. 298, 323-24, 115 SCt. 851, 130 L.Ed.2d. 808 (1995).

In other words , If the petitioner has been **Sentenced** as [A] ca-
reer criminal [B]ecause of juvenile adjudications that have been
[S]ealed under Youthfull Offender Statute of New York . Then t-
he petitioner is **Actually Innocence** of the **Career Enhanced** sente-
nce under U.S.S.G. 4.B.1. As Well . SEE MAYBECK Vs. UNITED STA-
TES, 23 F.3d. at. 892-93 (4th Cir. 1994). So the Court was wi-
thout **Subject Matter Jurisdiction** to impose such sentence . Also
SEE UNITED STATES Vs. MCLAMB, 77 F3d. 442, 1996 WL 79438 at**5
(4th Cir. 1996) (unpublished table disposition)(Niemeyer J.,
Concurring)(Writing seprately for the exclusive purpose of no-
ting a right to review a sentence despite a procedural default '
and no waiver of that bar by the goverment;

: " I believe that the defendant has a substantive right to " review an **illegal** sentence despite his failure to appeal the issue, and i do not believe that we could permit a defedant to remain in prison under an illegal sentence ."

This Argument is relevant beacuase ' Petitioners argument concerning the ' [A]lleged Indictment turns [S]quarely upon The statutes 841. (a) , B(1)(A) , B(1)(B) , B (1)(C) , none of which were charged in Alledged Indictment . Yet ' The **Career Criminal** Statute affects them all by elevating the base offense Level . Furthermore , with [N]o criminal ' history , And [N]o Amount of Alleged Controlled Substances it is almost Impossible that the petitioner would have been sentenced to **life** imprisonment .

So the [R]easons that **discovery** should be compeled , Along with there benefits ' far out weigh **any** argument that counsel for the respondent could argue . And any Further **Attempts** to **protract Litigation** should be frowned upon .

CONCLUSION

Wherefore the petitioner respectfully **prays** that this **Honorable Judge** By ' Order , Causes All [O]riginal Documents to be Furnished for in camera inspection by the court ' and then to all parties who may resolve the matter . As it is not counsels Job to win , But to see that [J]ustice is done. And [I]f ' not , Then The Petitioner Will Submit Motion to **amend** petition without **Discovery** . And further **asking** that a trial be commenced ' without **any** documents by opposing party .

RESPECTFULLY SUBMITTED THIS 23^d DAY OF JUNE 2003.

Mr. Allen Morsley
MR. ALLEN MORSLEY # 14718056
U.S.P LEE COUNTY
P.O. BOX 305
JONESVILLE, VIRGINIA
24263-0305

CERTIFICATE OF SERVICE

I ALLEN MORSLEY , THE PETITIONER IN THE ABOVE CAPTIONED MATTER, HEREBY CERTIFY THAT I HAVE CAUSED A COPY OF SAID MOTION TO BE FORWARDED BY , MAIL TO COUNSEL FOR THE RESPONDENT MATHEW E. HAGGERTY 228 WALNUT STREET. P.O.BOX 11754. HARRISBURG Pa. 17108-1754.

OF THIS DO I AFFIX MY HAND

Mr. Allen Morsley
MR. ALLEN MORSLEY.

6/23/2003

Reception Center,
Elmira, N. Y.)

At a Criminal Term of the Supreme
Court, held in and for Queen County at the Court House

New Gardens, Queen County, N. Y., on the 24th

Oct. 19 83

PRESENT:

Honorable Leroy B. Kellam

Justice of the Supreme Court.

Indictment No 771-82

THE PEOPLE OF THE STATE OF NEW YORK

vs.

Allen Mosley

Defendant

On 9/28/83 defendant plead guilty to Att Burglary 2nd degree.

WHEREUPON, it is ORDERED and ADJUDGED by the Court, that the said

Allen Mosley

as a youthful offender aforesaid, whereof he is adjudged, is sentenced to an INDETERMINATE sentence of imprisonment which shall have a maximum term of **three** years; (and the Court imposes a minimum period of imprisonment of **one** years), and that said defendant is committed to the custody of the State Department of Correction, and he shall be delivered to the Reception Center at Elmira, New York, there to be dealt with in accordance with the laws pertaining to his sentence. **Concurrent with sentence this date on Ind #40-83.**

From the evidence, it appears that the defendant is **19** years of age, and that the Information charges that the offense was committed on the **3rd** day of **March**, **82**.

Clerk

Sentence

OCT 24 1983

Part

Part _____ Date _____

Justice _____

A.D.A. _____

Deft. Atty. _____

Steno. _____

Verdict _____

PLEA

Part C4 Date SEP 28 1983Steno. LEON SIEGEL
COURT REPORTERDefendant withdraws former plea and
pleads guilty (before - during
trial toATTORNEY 2nd 10/10/83

Acceptance of plea recommended by

Stephen Foyen A.D.A.Counsel present Alfred P. LernerJustice HON. LEROY B. KELLAM

PENDING SENTENCE

Committed () Bail Continued () ROR ()

Sentence Date _____

() NACC exam ordered

() Psychiatric exam ordered - over

Date _____

On motion of _____

Steno _____

Justice _____ Part _____

Predicate Felony Info Filed _____

Arraigned on Info _____

Admits () Stands Mute () Denies ()

Justice _____ Part _____

Deft. Att'y _____

SENTENCE

Part C4 Date OCT 24 1983Steno ARNOLD WARCHANSKYCounsel Present COURT REPORTER Alfred P. LernerJustice HON. LEROY B. KELLAM

Arraigned on Narcotic Addiction

Admits () Stands Mute () Denies ()

Sentence: NYSOCM.W. 1/12May 3/113 **ENT**Concern w/ T.O. 1640/8Penalty Assessment Revoked

(4) ADVISED AND GIVEN NOTICE OF RIGHT TO APPEAL

Defendant advised pursuant 170.10 CPL (

Part _____ Date _____

Justice _____

Counsel Present _____

Plea W.R.N. 6 4/27/83

() Remanded

() Bail Fixed

() Bail Cont. _____ () ROR _____

Assignment Cal _____ Part _____

() Court directs 18 M assignment

125-01 Queens

PRESENT:

HON. PHILIP J. CHETTA
Justice

THE PEOPLE OF THE STATE OF NEW YORK

-against-

ALLEN MOSLEY

Defendant

Ind. No. 701-198

Motion Made and Mapp

Submitted	19 8
Argued	19 8
Hearing	19 8

The following papers numbered
1 to submitted in this motion

Allan Brenner, Esq.

For the Motion

Kathy Pecker, Esq.

Opposed

Papers Numbered

Notice of Motion and Affidavits Annexed

Answering and Reply Affidavits

Exhibits

Minutes

Other

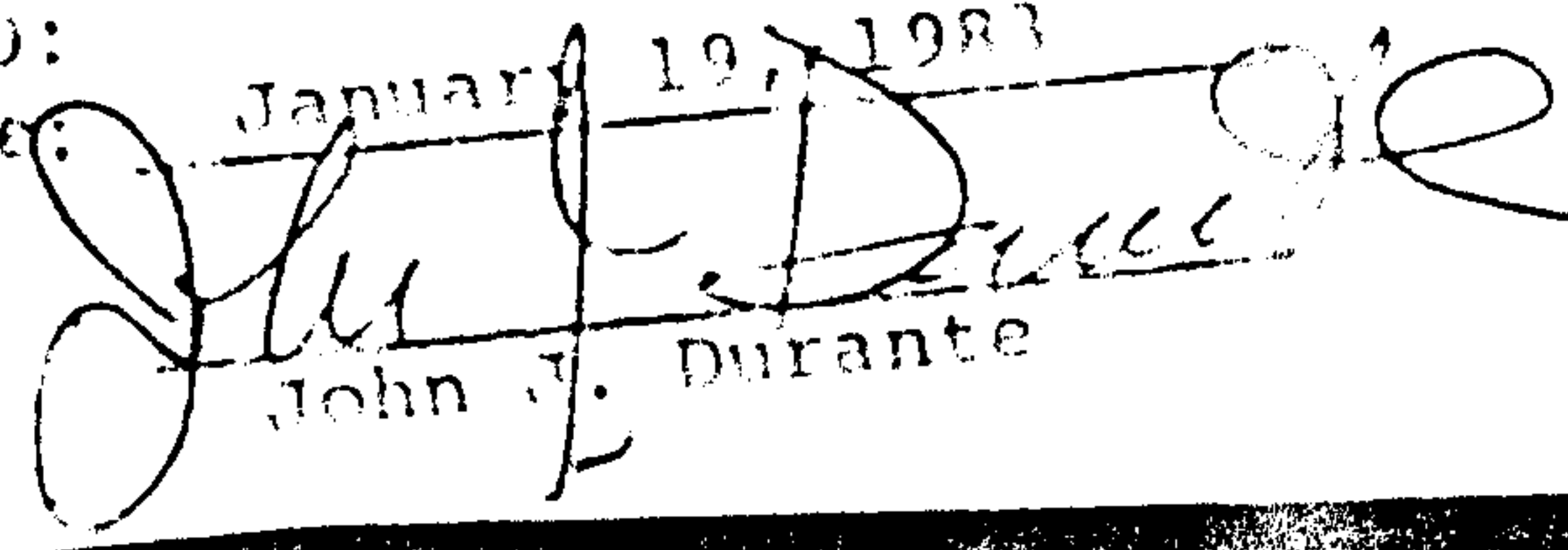
Upon the foregoing papers and for the reasons stated on the record of January 17, 1983, defendant's motion to suppress identification testimony (show-up) and physical evidence (property found on defendant's person) is granted. A copy of the decision shall be transcribed and annexed hereto.

Order entered accordingly.

The clerk of the court is directed to mail a copy of this order to the attorney for the defendant.

GRANTED:

Date: January 19, 1983


John J. Durante


PHILIP J. CHETTA, J.S.C.

2 COPIES TO D.C.
1 COPY TO D.C.

Roderick Black
Reg. No. 28287-054
P.O. Box 1000
Lewisburg, Pennsylvania 17837

September 28, 1999

Bar Counsel
North Carolina State Bar
OFFICE OF THE COUNSEL
P.O. Box 25908
Raleigh, North Carolina 27611

RE: Christine B. Hamilton - NC License to Practice Law.

Dear Bar Counsel:

Please provide me the year, month, and date Christine B. Hamilton was provided a North Carolina License to Practice Law in this State. If your records do not reflect the same, please advise me. Also, please do not deny me access to this information.

Thank you for your assistance in these matters. I await your expedite consideration because time is of essence.

Sincerely,

RB/jmp

Roderick Black
Roderick Black

No record
Not Licensed in N.C.

RECEIVED
OCT 1 1999
RALEIGH, N.C. 27611

Richard Clark
Membership Secretary

not found
not n.c. attorney

Joseph McCoy Powell
Post Office Box 1000
Lewisburg, Pennsylvania 17837

BY HAND:

September 27, 1999

Karl N. Hill, Jr., Chairman
Board of Law Examiners
208 Fayetteville St. Mall
NC State Bar Bldg., 3rd Fl.
P.O. Box 2946
Raleigh, North Carolina 27602

RE: Christine Blaise, or Christine B. Hamilton, or Christine Hamilton;
Certificate of Good Standing to Practice Law given from the North
Carolina Board of Bar Examiners.

Dear Mr. Hill:

Please provide me the month, date, and year a Certificate of Good Standing to Practice Law was given from the North Carolina Board of Bar Examiners to Christine Blaise, or Christine B. Hamilton, or Christine Hamilton. If she used the Certificate to get a license to practice law in North Carolina, please provide me the month, date and year she obtained her North Carolina license to practice. She is, or was a federal Assistant U.S. Attorney for the Eastern District of North Carolina.

Thank you for your assistance in this matter. Please do not deny me this information. I await your expedite consideration because time is of essence.

Respectfully,


Joseph McCoy Powell

JMP/le

VERIFICATION.

I certify under penalty of perjury that I have sent the original letter above to Karl N. Hill, Jr., Chairman of the N.C. Board of Law Examiners correctly addressed above, with sufficient prepaid postage to ensure delivery via U.S. Mail on this 27th day of September, 1999.


Joseph McCoy Powell

Joseph M. Powell
Post Office Box 1000 # 14322-056
Lewisburg, Pennsylvania 17837

September 19, 1999

Christie Speir Cameron, Clerk of NC Supreme Court
Justice Bldg.,
2 E. Morgan Street, Suite 1000
Post Office Box 2170
Raleigh, North Carolina 26701

RE: Christine Blaise or Christine Blaise Hamilton or Christine B. Hamilton
or Christine Hamilton - NC License to Practice.

Dear Mrs. Cameron:

Please provide me the following date, year and month Christine Blaise Hamilton (or under one of the above names) became a member in good standing of the Bar of the North Carolina Supreme Court. She is, or was a federal Assistant United States Attorney, for the Eastern District of North Carolina.

If your records do not reflect the above information, please inform me accordingly. Please do not deny me access to this information. Your cooperation will greatly be appreciated. I await your expedite consideration because time is of essence.

JMP/dh

Sincerely,


Joseph M. Powell

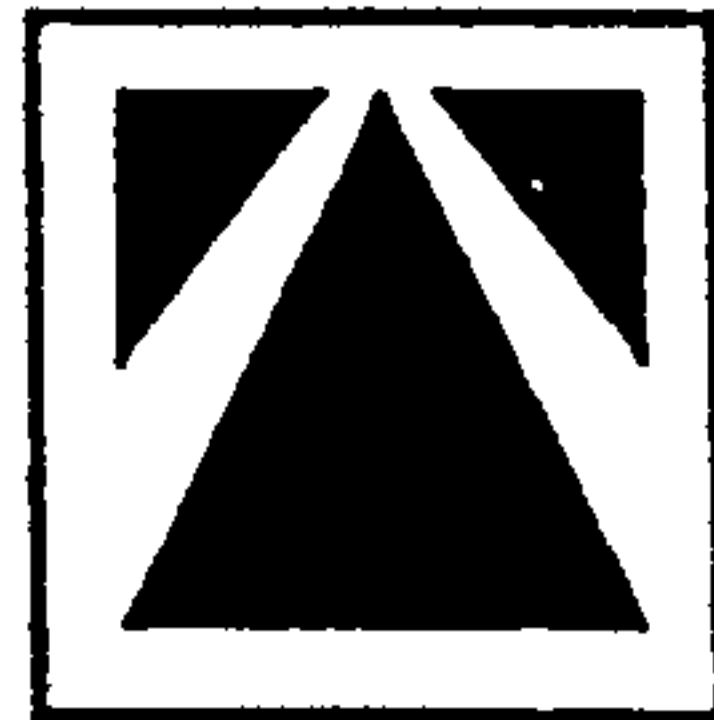
VERIFICATION.

I hereby certify under penalty of perjury that I have enclosed the foregoing letter to: Christie Speir Cameron, Clerk of the N.C. Supreme Court correctly addressed above, with sufficient prepaid first-class postage to ensure delivery via U.S. Mail on this 19th day of September, 1999.

There is no record that
Christine Blaise Hamilton is a
member of the Bar of NC
Supreme Court.

Sincerely,
Forney C. Gainer
Deputy Clerk


Joseph M. Powell



The North Carolina State Bar
Office of Counsel

Carolyn D. Bakewell
Counsel
Counsel

September 7, 1999

A. Root Edmonson, Deputy Counsel
Fern Gunn Simeon, Deputy Counsel
Clayton W. Davidson III, Deputy
Douglas J. Brocker, Deputy Counsel
Larissa J. Erkman, Deputy Counsel

Mr. Joseph M. Powell
PO Box 1000
14322-056
Lewisburg, Pa. 17837

Dear Mr. Powell:

This is in response to your letter of Aug. 31. There is no attorney licensed in the State of North Carolina by the name of Christine Blaise Hamilton, Christine B. Hamilton or Christine Hamilton.

Very truly yours,

Carolyn Bakewell
Counsel

P.O. BOX 305
JONESVILLE, VIRGINIA 24263-0305



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JUDICARY - JEFFERSON COUNTY

DATE _____

THE POLYMER LETTERS

[illegible]